

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MILLARD WAYNE BAKER, JR.,

Plaintiff,

v.

SHIRELY, *et al.*,

Defendants.

Case No. 1:24-cv-01442-JLT-BAM (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(ECF No. 6)

ORDER GRANTING EXTENSION OF TIME
TO FILE APPLICATION TO PROCEED *IN*
FORMA PAUPERIS (OR PAY FILING FEE)

THIRTY (30) DAY DEADLINE

Plaintiff Millard Wayne Baker, Jr. ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On December 2, 2024, the Court ordered Plaintiff to file an application to proceed *in forma pauperis*, completed and signed, including a certified copy of his trust account statement for the past six months, or in the alternative, to pay the \$405.00 filing fee for this action. (ECF No. 3.)

Plaintiff did not file an application to proceed *in forma pauperis*, or pay the filing fee for this action. Accordingly, on January 21, 2025, the undersigned issued findings and recommendations to dismiss this action, without prejudice, for failure to obey court order and failure to prosecute. (ECF No. 6.) Plaintiff was directed to file any objections to the findings and recommendations within fourteen (14) days. (*Id.*)

1 Currently before the Court is Plaintiff's motion an extension of time to file his *in forma*
2 *pauperis* application, filed January 21, 2025. (ECF No. 7.) Plaintiff states that when the Court's
3 December 2, 2024 order was issued, he was rushed to San Diego Health Hospital for emergency
4 surgery. Plaintiff just received the Court's order the week of January 5, 2025. Plaintiff therefore
5 requests an extension of thirty days to file his *in forma pauperis* application. (*Id.*)

6 Having considered Plaintiff's motion, the Court finds it appropriate to vacate the pending
7 findings and recommendations. Plaintiff's motion for an extension of time to file his application
8 to proceed *in forma pauperis* (or pay the filing fee) is granted.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations issued on January 21, 2025, (ECF No. 6), are
11 VACATED;
- 12 2. Plaintiff's motion for extension of time, (ECF No. 7), is GRANTED;
- 13 3. The Clerk of the Court is directed to serve this order and a blank *in forma pauperis*
14 application for a prisoner on Plaintiff;
- 15 4. Within **thirty (30) days** from the date of service of this order, Plaintiff SHALL file the
16 attached application to proceed *in forma pauperis*, completed and signed, including a
17 certified copy of his trust account statement for the past six months, or in the alternative,
18 pay the \$405.00 filing fee for this action;
- 19 5. **Plaintiff is warned that the failure to comply with this order will result in dismissal**
20 **of this action, without prejudice.**

21
22 IT IS SO ORDERED.

23 Dated: January 23, 2025

24 /s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE
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